

Racial Profiling

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123.1 PURPOSE

The purpose of this policy is to reaffirm this agency's commitment to unbiased policing in all encounters between officers of this agency and any person; to reinforce procedures that serve to ensure public confidence and mutual trust while providing services in a fair and equitable manner; and to protect our officers from unwarranted accusations of misconduct when they act within the guidelines of agency policy and the law.

123.2 POLICY

It is the policy of this agency to police in a proactive manner and aggressively investigate suspected violations of the law. Officers shall actively enforce laws in a responsible and professional manner without regard to race, ethnicity or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians.

Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas Constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude officers from offering assistance to members of the public, i.e. assisting a motorist with a mechanical problem, a flat tire, or someone who appears ill, lost or confused. Nor does this policy prohibit stopping an individual suspected of a crime based upon observed actions and/or information received about the person.

123.3 DEFINITIONS

A. *Racial Profiling* – A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom an officer is searching. Detaining a person and conducting an inquiry into that individual's activities simply because of their race, ethnicity or national origin is racial profiling. Examples of racial profiling include but are not limited to the following:

1. Citing a speeding driver because of the person's race, ethnicity or national origin, while overlooking other individuals driving in the same traffic lanes.
2. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
3. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.

A law enforcement agency can derive two principles from the adoption of this definition of racial profiling:

1. Police may not use racial or ethnic stereotypes as factors in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect.
 2. Law enforcement officers may not use race or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling is not relevant as it pertains to witnesses, etc.
- B. *Race or Ethnicity* – Of a particular decent, including Caucasian, African, Hispanic, Asian, or Native American.
- C. *Pedestrian Stops* – An interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.
- D. *Traffic Stop* – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

123.4 TRAINING

Officers are responsible to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training requirements as mandated by law.

All officers shall complete a TCLEOSE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.

123.5 COMPLAINT INVESTIGATION

- A. Any employee of this agency shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.
- B. Any employee who receives an allegation of racial profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint to their immediate supervisor. A supervisor or designated employee shall provide to that person a copy of a complaint form or explain processes for filing a complaint. All employees will report any allegation of racial profiling to their shift supervisor before the end of their shift.

- C. Investigation of a complaint shall be conducted in a thorough and timely manner. All complaints must be acknowledged in writing to the complainant, who will be notified of the disposition of the complaint within a reasonable period of time. The investigation shall be reduced to writing and a copy of the findings report forwarded to the Chief Deputy. When applicable, the findings report shall be submitted to the Bureau Commander for review and recommendations concerning disciplinary action, retraining, or changes in departmental policy.
- D. If a racial profiling complaint is sustained against an officer, it will result in appropriate corrective and/or disciplinary action, up to and including termination.
- E. If there is a video or audio recording of the events which a complaint of racial profiling is based, upon commencement of an investigation by this agency, and upon a written request by the accused officer, this agency shall promptly provide a copy of the recording to that officer.

123.6 PUBLIC EDUCATION

This agency will inform the public of its policy against racial profiling and the complaint process via any appropriate means, including but not limited to public forums, mass media, or the Internet. Information will be made available as appropriate in languages other than English.

123.7 CITATION DATA COLLECTION & REPORTING

- A. Officers are required to collect information relating to traffic stops in which a citation is issued. The officer's daily report must include:
 - 1. the violators race or ethnicity;
 - 2. whether a search was conducted;
 - 3. was the search consensual; and
 - 4. arrest for this cited violation or any other violation.
- B. Not later than March 1st of each year, the Sheriff shall submit a report to the Commissioners' Court of Galveston County that includes the information gathered by the citations. The report will include:
 - 1. a breakdown of citations by race or ethnicity;
 - 2. total citations that resulted in a search;
 - 3. total searches that were consensual; and
 - 4. total citations that resulted in custodial arrest for the cited violation or any other violation.

123.8 COLLECTION AND REPORTING INFORMATION GATHERED FROM TRAFFIC AND PEDESTRIAN STOPS

- A. With use of Video and Audio Equipment
 - 1. All marked motor vehicles regularly used by this agency to make traffic and pedestrian stops will be equipped with a video camera and transmitter-activated equipment. All traffic and pedestrian stops made by an officer of this agency that are capable of being recorded by video and audio, or audio, as appropriate, will be recorded.
 - 2. This agency shall retain video and/or audio tapes of each traffic and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this agency alleging that an officer has engaged in racial profiling with respect to a traffic or pedestrian stop, this agency shall retain the video and/or audio tapes of the stop until final disposition of the complaint.

3. Supervisors will ensure officers of this agency are recording their traffic and pedestrian stops. A recording of each officer will be reviewed at least once every ninety (90) days.
 4. Regardless of whether an agency vehicle is equipped with video and/or audio recording equipment, written documentation of certain data pertaining to traffic and pedestrian stops shall be gathered by officers in accordance with Sec. 123.8 (B) below.
- B. Without use of Video and Audio Equipment
1. Utilizing a standardized form, an officer who stops a motor vehicle for an alleged violation of a law or ordinance, or who stops a pedestrian for any suspected offense, shall record and report the following information:
 - a. A physical description of each person detained as a result of the stop, including the person's gender and race or ethnicity, as stated by the person or as determined by the officer to the best of his/her ability;
 - b. the street address or approximate location of the stop;
 - c. the suspected offense, traffic law or ordinance alleged to have been violated;
 - d. whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
 - e. whether probable cause to search existed and, if so, the fact(s) supporting the existence of that probable cause;
 - f. whether any contraband was discovered in the course of the search and, if so, the type of contraband discovered;
 - g. whether the officer made an arrest as a result of the stop and/or search, and, if so, a statement of the offense charged; and
 - h. whether the officer issued a warning or a citation as a result of the stop and, if so, a statement of the offense charged.
 - C. Not later than March 1st of each year, the Sheriff or his designee shall present a written summary report in an appropriate format compiling data generated as a result of traffic and pedestrian stops to the Galveston County Commissioner's Court. Said report shall include a comparative analysis of information contained in data collection reports and information relating to complaints alleging racial profiling against officers of this agency.
 - D. The above described report may also be utilized to determine the prevalence of racial profiling by sworn officers of this agency and examine the disposition of traffic and pedestrian stops made by sworn officers of this agency, including any and all searches resulting from such stops.
 - E. Summary reports shall not include specific identifying information about any agency employee or person who is stopped or arrested by a sworn officer of this agency.